



GCE

Law

Unit **G152**: Sources of Law

Advanced Subsidiary GCE

Mark Scheme for June 2016

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This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.

All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

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1. Annotations

Annotation	Meaning
	Not Relevant or no response or response achieves no credit
	Not correct
	Point
	Developed point
	Developed point extended
	Link to the source
	Feature
	level 1
	level 2
	level 3
	level 4
	Case
	Correct
	Bald case/Definition
	Undeveloped case The highlight tool may also be used to draw attention to a word or phrase which means that the statement or reasoning is inaccurate

Question		Answer	Marks	Guidance								
1	(a)*	<p>Potential answers may:</p> <p>Assessment Objective 1 - Knowledge and understanding</p> <p>Government Policy - leads to all the legislation in each Queen's Speech including major Acts such as the Human Rights Act 1998</p> <p>Obligations under European and International Treaties - such as the Consumer Protection Act 1987 which was enacted to comply with the Product Liability Directive (85/374/EEC)</p> <p>Public Inquiries - such as the Cullen Report which was a response to a public campaign (the Snowdrop Campaign) after the Dunblane massacre which, in turn, resulted in the Firearms (Amendment) Act 1997</p> <p>Public opinion - (often expressed through the media) has led to legislation such as the Forced Marriage (Civil Protection) Act 2007 and the Dangerous Dogs Act 1991</p> <p>Pressure Groups - such as the League Against Cruel Sports who campaigned for the Hunting Act 2004 and Stonewall who campaigned for the repeal of section 28 of the Local Government Act 1988 which was included in the Local Government Act 2003</p> <p>Interest Groups - such as the Trades Union Congress (TUC) & Confederation of British Industry (CBI) who have contributed to changes in employment law such as the Equal Pay Act 1970</p> <p>Private Members' Bills - such as Michael Colvin and David Steel who introduced the Computer Misuse Act 1991 and the Abortion Act 1967 respectively</p> <p>Emergency situations - such as the response to the potential threat posed by the attack on the US World Trade Center (<i>sic</i>) in 2001 which led to the Anti-Terrorism, Crime and Security Act 2001</p>	12	<p>AO1 Levels</p> <table> <tr> <td>4</td> <td>10–12</td> </tr> <tr> <td>3</td> <td>7–9</td> </tr> <tr> <td>2</td> <td>4–6</td> </tr> <tr> <td>1</td> <td>1–3</td> </tr> </table> <p>To access Level 4 a response will need a good range of examples of law reform sources with some description and/or examples of Acts plus a link to the source</p> <p>To access Level 3 a response will need an adequate range of examples of law reform sources with some description and/or examples of Acts</p> <p>To access Level 2 – Limited range of points</p> <p>To access Level 1 – Basic points</p>	4	10–12	3	7–9	2	4–6	1	1–3
4	10–12											
3	7–9											
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Question	Answer	Marks	Guidance
	<p>The Criminal Law Revision Committee - have made a number of recommendations which have led to legislation such as the Theft Act 1968</p> <p>Royal Commissions - such as the Royal Commission on Criminal Procedures (aka the 'Philips Commission') which led to the Police and Criminal Evidence Act 1984</p> <p>Judicial Decisions - such as the gaps in the law highlighted by the House of Lords in <i>R v Preddy</i> (1996) which led to the passing of the Theft (Amendment) Act 1996</p> <p>The Law Commission</p> <p>Identify legislation relevant to the Law Commission's role: the Law Commission Act 1965 and the Law Commission Act 2009</p> <p>What they do:</p> <ul style="list-style-type: none"> • To systematically keep all English law under review • To receive and consider proposals for law reform and consult relevant parties • To put forward proposals for reform • Repeal – to remove out of date statutes (the Statute Law (Repeals) Act 1998 repealed over 150 complete Acts of Parliament, which were outdated) • Consolidation – to draw all the existing provisions together in one Act where it is currently found in a number of smaller provisions (Family Law Act 1996) • Codification – bringing together all the law on one topic into one source • The draft Criminal Code 1985 and the full Code 1989 were an attempt to codify all criminal law). <p>Describe the composition of the Law Commission:</p> <ul style="list-style-type: none"> • There are five full-time Commissioners • The Chairman is either a High Court or an Appeal Court judge appointed for up to three years 		

Question	Answer	Marks	Guidance								
	<ul style="list-style-type: none"> • The other four Commissioners are experienced judges, barristers, solicitors or teachers of law • They are appointed by the Lord Chancellor and Secretary of State for Justice for up to five years • The Commissioners are supported by a Chief Executive and about 20 members of the Government Legal Service, two Parliamentary Counsel (who draft the Bills to reform and consolidate the law), and a number of research assistants <p>How they do it:</p> <ul style="list-style-type: none"> • Referral: topics may be referred by the Lord Chancellor on behalf of the Government, or it may itself select areas in need of reform • Research: LC researches the area of law in need of reform and publishes a consultation paper seeking views on possible reform • Consultation: a consultation paper will describe the current law, set out the problems and look at options for reform • Proposals for reform: these will be presented in a report which will also set out the research that led to the conclusions. There will often be a draft Bill attached to the report <p>Describe any relevant success of the Law Commission – the <i>Occupier's Liability Act 1984</i>, the <i>Land Registration Act 2002</i>, the <i>Fraud Act 2006</i> and the <i>Corporate Manslaughter and Corporate Homicide Act 2007</i> are all seen as successes</p> <p>Make relevant reference to Source A.</p>										
	<p>Assessment Objective 3 - Communication and presentation</p> <p>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.</p>	3	<table> <thead> <tr> <th>AO1 Marks</th> <th>AO3 Marks</th> </tr> </thead> <tbody> <tr> <td>9–12</td> <td>3</td> </tr> <tr> <td>5–8</td> <td>2</td> </tr> <tr> <td>1–4</td> <td>1</td> </tr> </tbody> </table>	AO1 Marks	AO3 Marks	9–12	3	5–8	2	1–4	1
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Question		Answer	Marks	Guidance								
(b)	(i)	<p>Potential answers may:</p> <p>Assessment Objective 2 - Analysis, evaluation and application</p> <p>Identify a bylaw as the most appropriate form of delegated legislation (CP). This is because local knowledge would be needed or because a local body would have the authority to undertake such a ban under parent Acts such as the Local Government (Miscellaneous Provisions) Act 1982 or a local body would have a mandate through being elected (why). Other relevant factors may include a reference to the Source, another example of a bylaw or a reference to the body that makes bylaws</p>	5	<p>AO2 Levels</p> <p>For each point i, ii, iii</p> <table> <tr> <td>4</td> <td>5</td> </tr> <tr> <td>3</td> <td>4</td> </tr> <tr> <td>2</td> <td>3</td> </tr> <tr> <td>1</td> <td>1–2</td> </tr> </table> <p>To access Level 4 – Identify the CP, explain why and one other relevant factor (who makes, LNK, case etc)</p>	4	5	3	4	2	3	1	1–2
4	5											
3	4											
2	3											
1	1–2											
	(ii)	<p>Identify an Order in Council as the most appropriate form of delegated legislation (CP). This is because the transfer of constitutional powers is conventionally done through an Order in Council or that it involves the exercise of a prerogative power (why). Other relevant factors may include a reference to the Source, another example of an Order in Council, a reference to who makes an Order in Council (the Monarch and Privy Council) or that this may also be achieved through a special type of Order in Council called a Legislative Competence Order</p>	5	<p>To access Level 3 – Identify the CP and explain why</p> <p>To access Level 2 - Identify the CP</p> <p>To access Level 1 – any basic point of relevance</p>								
	(iii)	<p>Identify a statutory instrument as the most appropriate form of delegated legislation (CP). This is because the legislation would need to be national in effect or would need the expertise of the appropriate education minister/experts (why). Other relevant factors may include a reference to the Source, another example of a statutory instrument or a reference to who makes statutory instruments (Government Ministers and their departments)</p>	5									

Question		Answer	Marks	Guidance										
(c)	(i)	<p>Potential answers may:</p> <p>Assessment Objective 1 - Knowledge and understanding</p> <p>Statutory instrument:</p> <ul style="list-style-type: none"> They are generally introduced by Ministers of Government Departments under powers given in enabling Acts They are introduced by either an affirmative or a negative resolution procedure They come in the form of Orders, Regulations, Rules and Codes; They are national in effect They allow provisions of an Act of Parliament to be brought into force at a later date They provide the detail that would be too complex to include in the broad framework of an Enabling Act They amend, update and enforce provisions in existing primary legislation They employ the necessary expertise relevant to the area concerned Over 3000 are brought into force each year (3,133 in 2011) Give any examples eg Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009 No. 871 made under the Access to Justice Act 1999 <p>Regulatory Reform Order:</p> <ul style="list-style-type: none"> Made under the Regulatory Reform Act 2001 through the super-affirmative procedure Enable government to amend or repeal a provision in primary legislation which imposes a burden on business and others Can only be used as long as it does not reduce or remove any necessary protection Similar provisions exist in the Legislative and Regulatory Reform Act 2006 which gives Ministers powers to make Legislative Reform Orders that remove burdens directly or indirectly resulting from legislation 	15	<table> <thead> <tr> <th>AO1 Levels</th> <th>AO1 Marks</th> </tr> </thead> <tbody> <tr> <td>4</td> <td>13-15</td> </tr> <tr> <td>3</td> <td>9-12</td> </tr> <tr> <td>2</td> <td>5-8</td> </tr> <tr> <td>1</td> <td>1-4</td> </tr> </tbody> </table> <p>To access Level 4 – a good range of points covering two types and a link to the source</p> <p>To access Level 3 – an adequate range of points</p> <p>To access Level 2 – a limited range of points</p> <p>To access Level 1 – a range of basic points or a single point with a little development</p>	AO1 Levels	AO1 Marks	4	13-15	3	9-12	2	5-8	1	1-4
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Question	Answer	Marks	Guidance
	<ul style="list-style-type: none"> Give a relevant example of an Order: eg the The Local Authorities (Contracting Out of Tax Billing, Collection and Enforcement Functions) (Amendment) (England) Order 2013 made under the Deregulation and Contracting Out Act 1994 <p>Bylaw:</p> <ul style="list-style-type: none"> They are made by local authorities to cover local issues or by public corporations to cover the services they provide They are mostly created under the Local Government Act 1972 or the Local Government (Miscellaneous Provisions) Act 1982 Bylaws must be 'confirmed' (approved by the relevant Secretary of State) before they can come into force Notice and publication in local press will be required and copies must be available for inspection at local authority offices Since they are not subject to the affirmative and negative resolution procedures, they may be subject to judicial review and quashed as <i>ultra vires</i> if they go beyond the limits of the enabling Act They are usually based on Home Office guidelines and limited to a specific geographical area Use relevant examples of a bylaw: eg bans on outside drinking, skateboarding, fishing from piers and dogs fouling footpaths or, for public corporations, London Underground banning smoking on the underground or your local water company banning the use of hose pipes. A specific example is the Motor Cycles (Protective Helmets) Regulations 1980 made under the Road Traffic Act 1988 <p>Order in Council:</p> <ul style="list-style-type: none"> Some Orders in Council are primary legislation made under the Royal prerogative (see the Northern Ireland Act 1998) but most are secondary legislation They are drafted by government departments and approved by the Queen and Privy Council They are made under powers given in a parent Act They are most commonly used when a SI would not be 		

Question	Answer	Marks	Guidance
	<p>appropriate such as transferring power between government departments, extending legislation to Crown Dependencies such as the Channel islands or the transfer of power to devolved assemblies</p> <ul style="list-style-type: none"> They are often used to grant Charters to hospitals and universities and to provide for the administration and regulation of professional bodies (Orders of Council) OiC can also be used under the Emergency Powers Act 1920 and Civil Contingencies Act 2004 where they are used in times of emergency, particularly war and when Parliament is not sitting OiC are also used to implement some EU law under the European Communities Act 1972 <p>Give any example of an Order in Council: eg The Trading with the Enemy (Revocation) Order in Council 2011</p> <p>Make relevant reference to Source B.</p>		

Question		Answer	Marks	Guidance								
	(ii)*	<p>Potential answers may:</p> <p>Assessment Objective 2 - Analysis, evaluation and application</p> <p>Advantages</p> <ul style="list-style-type: none"> • Saves Parliamentary time (compared to legislative process for primary legislation) • Allows Parliament to concentrate on broader policy issues rather than getting bogged down in detail • Allows technical matters to be dealt with by properly qualified experts • Consultation brings in expertise and public opinion • Flexibility – quick to respond to changing conditions (e.g. updating the classification of certain drugs) • Fast – provides a very quick solution to emergency situations • Allows large scale legislative change to be achieved incrementally (eg Access to Justice Act 1999) • A range of controls are available to ensure no abuse of power • Political convenience – getting legislation through ‘by the back door’ of delegated legislation may avoid media scrutiny and political opposition • Locally accountable – allows for de-centralised decision-making and local accountability through bylaws • Respects constitutional doctrines – by recognising role of monarch in Orders in Council when dealing with prerogative powers • The ability to make law when parliament is not sitting • Administrative expedience – Parliament is not the appropriate forum to deal with the constant review and updating of administrative matters <p>Credit relevant references to the sources.</p>	12	<p>AO2 Levels</p> <table> <tr> <td>4</td> <td>10–12</td> </tr> <tr> <td>3</td> <td>7–9</td> </tr> <tr> <td>2</td> <td>4–6</td> </tr> <tr> <td>1</td> <td>1–3</td> </tr> </table> <p>To access Level 4 (10-12) a response is likely to demonstrate: a range of points, developed points and well developed points but must have at least one well developed point</p> <p>To access Level 3 (7-9) a response likely to demonstrate a range of points and developed points including at least 2 developed points</p> <p>To access Level 2 (4-6) a response likely to demonstrate a range of points including at least one developed point</p> <p>To access Level 1 (1-3) a response likely to demonstrate basic point(s)</p>	4	10–12	3	7–9	2	4–6	1	1–3
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Question		Answer	Marks	Guidance	
		<p>Assessment Objective 3 - Communication and presentation</p> <p>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.</p>	3	AO2 Marks 9–12 5–8 1–4	AO3 Mark 3 2 1

Question		Answer	Marks	Guidance								
2	(a)*	<p>Potential answers may:</p> <p>Assessment Objective 1 - Knowledge and understanding</p> <p>Explain that none of the main rules of interpretation view words in complete isolation. Other words in the Act must be considered to see if they affect the word or phrase which is in question</p> <p>Explain that lawyers have, over the years, developed a number of so-called rules of language expressed as Latin maxims:</p> <p><i>Expressio unius exclusio alterius</i> ... means ... the mention of one thing excludes others. Sometimes known as the specific rule. Where there is a list of words which is not followed by general words, then the Act applies only to items in the list. For example, an Act lists 'butter, milk, cream and cheese' – does it include flour? No – because it is not included in the specific list. A case to illustrate this rule would be <i>Tempest v Kilner</i> (1846) where the list "goods, wares and merchandise" was not followed by any general words, so the court held that only contracts for those three things were affected by the statute. See also <i>R v Inhabitants of Sedgley</i> (1831)</p> <p><i>Eiusdem generis</i> ... means ... of the same kind. Sometimes known as the general rule. Where there is a list of words followed by general words, then the general words are limited to the same kind of items as the specific words. For example, an Act refers to 'butter, milk, cream and other foods' – it would apply to cheese as it is of the same type as the things listed (a dairy product) but it would not apply to flour because although it is also 'food' – it is not a dairy product. A case to illustrate this rule would be <i>Powell v Kempton Park Racecourse</i> (1899) where the court decided that the general words "other place" in an Act referring to a 'house, office, room or other place for betting' had to refer to indoor places since all the words in the list referred to indoor places. See also <i>Gregory v Fearn</i> (1953)</p>	12	<p>AO1 Levels</p> <table> <tr><td>4</td><td>10–12</td></tr> <tr><td>3</td><td>7–9</td></tr> <tr><td>2</td><td>4–6</td></tr> <tr><td>1</td><td>1–3</td></tr> </table> <p>AO1 Marks</p> <p>To access Level 4 – candidate explains three rules of language</p> <p>To access Level 3 – candidate explains two rules of language</p> <p>To access Level 2 – candidate explains one rule of language</p> <p>To access Level 1 – candidate gives basic points</p>	4	10–12	3	7–9	2	4–6	1	1–3
4	10–12											
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Question	Answer	Marks	Guidance								
	<p><i>Noscitur a sociis</i> ... means ... a word is known by the company it keeps. Sometimes known as the context rule. This means that the words must be looked at in context and interpreted accordingly; it involves looking at other words in the same section or at other sections in the Act. For example, an Act that refers to 'scales, mixing bowls, spoons and whisks' would not include a set of bathroom scales as the meaning of the word scales is informed by the words around it which make it obvious they are kitchen scales. A case to illustrate this rule would be <i>Muir v Keay</i> (1875) where it was held that because the word 'entertainment' appeared in a section which also referred to 'resort and refreshment', that 'entertainment' did not refer exclusively to theatrical entertainment, music and dancing but included the broader meaning and context of being 'entertained'. See also <i>IRC v Frere</i> (1969) or <i>Bromley London Borough Council v Greater London Council</i> (1982)</p> <p>Make relevant reference to Source A.</p>										
	<p>Assessment Objective 3 – Communication and presentation</p> <p>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.</p>	3	<table> <thead> <tr> <th>AO1 Marks</th> <th>AO3 Mark</th> </tr> </thead> <tbody> <tr> <td>9–12</td> <td>3</td> </tr> <tr> <td>5–8</td> <td>2</td> </tr> <tr> <td>1–4</td> <td>1</td> </tr> </tbody> </table>	AO1 Marks	AO3 Mark	9–12	3	5–8	2	1–4	1
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(b)	(i)	<p>Potential answers may:</p> <p>Assessment Objective 2 - Analysis, evaluation and application</p> <p>Recognise that the best rule of language here would be the <i>Noscitur a sociis</i> rule or 'context rule' (CP). Reason that it would not include olive oil because all the items in the list are associated in some way with motoring and olive oil is generally for food/medicinal use – the 'oil' must be motor oil (Why). Use an appropriate case to illustrate the rule - <i>Muir v Keay</i> (1875). Credit reference to the source</p>	5	<p>AO2 Levels</p> <p>For each point i, ii, iii</p> <table> <tr> <td>4</td> <td>5</td> </tr> <tr> <td>3</td> <td>4</td> </tr> <tr> <td>2</td> <td>3</td> </tr> <tr> <td>1</td> <td>1–2</td> </tr> </table> <p>To access Level 4 – Identify the CP, explain why and one other relevant factor (LNK, case etc)</p>	4	5	3	4	2	3	1	1–2
4	5											
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1	1–2											
	(ii)	<p>Recognise that the best rule of language here would be the <i>Expressio unius exclusio alterius</i> rule or 'specific rule' (CP). Reason that it would not include a moped because it is not specifically listed (Why). Use an appropriate case to illustrate the rule - <i>Tempest v Kilner</i> (1846). Credit reference to the source</p>	5	<p>To access Level 3 – Identify the CP and explain why</p>								
	(iii)	<p>Recognise that the best rule of language here would be the <i>Eiusdem generis</i> rule or 'general rule' (CP). Reason that it would not include a motorboat because all the items in the list are land-based vehicles (or run on wheels) and so the 'other vehicles' must also be land-based (or wheeled) (Why). Use an appropriate case to illustrate the rule - <i>Powell v Kempton Park Racecourse</i> (1899). Credit reference to the source</p>	5	<p>To access Level 2 - Identify the CP</p> <p>To access Level 1 – any basic point of relevance</p>								

Question		Answer	Marks	Guidance								
(c)	(i)	<p>Potential answers may:</p> <p>Assessment Objective 1 - Knowledge and understanding</p> <p>Explain that the purposive approach seeks to give effect to the general intention and spirit of the statute as opposed to the literal meaning of the word(s)</p> <p>In <i>Maunsell v Ollins</i> (1975) Lord Simons suggested a two tier test. The judge is to look to the purpose of the legislation and then must look at the words and interpret them according to the purpose</p> <p>Identify that the purposive approach takes a broader approach than the mischief rule in that the court is not just looking to see what the gap was in the old law; the judges are deciding what they believe Parliament is trying to achieve – what is the purpose of the Act?</p> <p>Explain that judges are required to consider the broader context in which the law was created – what were the concerns of government and Parliament at the time the Act was created?</p> <p>Recognise the increased need for judges to refer to external aids</p> <p>Describe how this rule has been increasingly used in recent years</p> <p>Describe how this rule links to a more continental approach to interpretation and the increased use is associated with our membership of the EU and the way judges are expected to interpret EU legislation – for example, UK judges are obliged to interpret UK law in the light of EU law under the doctrine of Indirect Effect</p> <p>Describe the perceived unconstitutional nature of the rule</p> <p>Use any relevant cases to illustrate its use – <i>Coltman v Bibby Tankers</i> (1987), <i>Fitzpatrick v Sterling Housing Association</i> (1999), <i>R v Registrar General ex p Smith</i> (1990), <i>Jones v Tower Boot</i> (1997), <i>Ghaidan v</i></p>	15	<p>AO1 Levels</p> <table> <tr> <td>4</td> <td>13–15</td> </tr> <tr> <td>3</td> <td>9–12</td> </tr> <tr> <td>2</td> <td>5–8</td> </tr> <tr> <td>1</td> <td>1–4</td> </tr> </table> <p>To access Level 4 – a definition plus a link to the source plus three developed cases</p> <p>To access Level 3 – a definition plus two developed cases</p> <p>To access Level 2 – a definition plus one developed case</p> <p>To access Level 1 – a range of basic points or a single point with a little development</p>	4	13–15	3	9–12	2	5–8	1	1–4
4	13–15											
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		<p><i>Mendoza</i> (2004), <i>R v Secretary of State for Health ex parte Quintavalle</i> (2003), <i>IRC v McGuckian</i> (1997), <i>Pickstone v Freemans plc</i> (1998), <i>Pepper v Hart</i> (1993)</p> <p>Make relevant reference to Source B.</p>		

Question		Answer	Marks	Guidance		
	(ii)*			AO2 Levels	AO2 Marks	
		<p>Potential answers may:</p> <p>Assessment Objective 2 - Analysis, evaluation and application</p> <p>It could be argued that the literal rule respects the supremacy of parliament as it follows parliament's exact wording. However, many would argue that the purposive approach respects parliamentary supremacy more by giving effect to parliament's true intentions. Parliament cannot have intended the shopkeeper in <i>Fisher v Bell</i> to get away with his 'offence', nor can parliament have intended <i>Cheeseman</i> to get away with an act which the statute clearly intended to criminalise</p> <p>The purposive approach is more suited to the interpretation of European legislation and the Human Rights Act which are written in very broad terms setting out general principles. Judges have to interpret according to the 'spirit rather than the letter' of the law. The literal rule would struggle to cope with legislation which lacks the detail of traditional English Acts of Parliament. Even so, opponents of the approach (such as Lord Scarman) argue that the only way to discover Parliament's intentions is by applying the words used in the statute. It is not for a judge to argue that 'Parliament said one thing but meant another'</p> <p>Consider the fact that the Law Commission's report of 1969 was critical of the literal rule and that many academics have also been highly critical of its limitations. But the Law Commission has said of the purposive approach that it is 'looking for the positive social purpose of the legislation'</p> <p>The literal rule (through the destructive analysis of language) produces harsh (<i>Berriman</i>), absurd (<i>Whately</i>) and unjust (<i>Fisher</i>) results which the purposive approach would avoid</p> <p>When determining parliament's intentions, the purposive approach makes liberal use of extrinsic aids to interpretation which gives the security of context and certainty where the literal rule will resort to little more than a dictionary</p>	12	<p>4</p> <p>3</p> <p>2</p> <p>1</p>	<p>10–12</p> <p>7–9</p> <p>4–6</p> <p>1–3</p>	<p>To access Level 4 (10-12) a response is likely to demonstrate: a range of points, developed points and well developed points but must have at least one well developed point</p> <p>To access Level 3 (7-9) a response likely to demonstrate a range of points and developed points including at least 2 developed points</p> <p>To access Level 2 (4-6) a response likely to demonstrate a range of points including at least one developed point</p> <p>To access Level 1 (1-3) a response likely to demonstrate basic point(s)</p>

Question	Answer	Marks	Guidance								
	<p>Explain that the approach does not respect Parliamentary sovereignty and allows non-elected judges far too much judicial creativity;</p> <p>Recognise that the approach might encourage judges to remedy defects or gaps in legislation without recourse to Parliament</p> <p>Discuss how the approach goes further than the mischief rule (part of the literal approach) in that judges are not required to identify a 'mischief' which the Act was intended to remedy</p> <p>Unlike the literal rule, the purposive approach does not expect an impossible level of perfection in parliamentary draftsmanship</p> <p>Discuss the different judicial attitudes towards trying to find parliamentary intent – credit any quotes or references to the Lord Denning versus Lord Scarman debate</p> <p>Credit relevant reference to the sources.</p>										
	<p>Assessment Objective 3 - Communication and presentation</p> <p>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.</p>	3	<table> <thead> <tr> <th>AO2 Marks</th> <th>AO3 Marks</th> </tr> </thead> <tbody> <tr> <td>9–12</td> <td>3</td> </tr> <tr> <td>5–8</td> <td>2</td> </tr> <tr> <td>1–4</td> <td>1</td> </tr> </tbody> </table>	AO2 Marks	AO3 Marks	9–12	3	5–8	2	1–4	1
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AS GCE Law Levels of Assessment

There are **four** levels of assessment of AOs 1 and 2 in the AS units. Level 4 is the highest level that can reasonably be expected from a candidate at the end of the first year of study of an Advanced GCE course. Similarly, there are **three** levels of assessment of AO3 in the AS units.

Level	Assessment Objective 1	Assessment Objective 2	Assessment Objective 3 (includes QWC)
4	Good, well-developed knowledge with a clear understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate by good citation to relevant statutes and case-law.	Ability to identify and analyse issues central to the question showing some understanding of current debate and proposals for reform or identify most of the relevant points of law in issue. Ability to develop clear arguments or apply points of law clearly to a given factual situation and reach a sensible and informed conclusion.	
3	Adequate knowledge showing reasonable understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate with some citation of relevant statutes and case-law.	Ability to analyse most of the more obvious points central to the question or identify the main points of law in issue. Ability to develop arguments or apply points of law mechanically to a given factual situation, and reach a conclusion.	A good ability to present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
2	Limited knowledge showing general understanding of the relevant concepts and principles. There will be some elaboration of the principles, and where appropriate with limited reference to relevant statutes and case-law.	Ability to explain some of the more obvious points central to the question or identify some of the points of law in issue. A limited ability to produce arguments based on their material or limited ability to apply points of law to a given factual situation but without a clear focus or conclusion.	An adequate ability to present logical and coherent arguments and communicates relevant material in a reasonably clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
1	Very limited knowledge of the basic concepts and principles. There will be limited points of detail, but accurate citation of relevant statutes and case-law will not be expected.	Ability to explain at least one of the simpler points central to the question or identify at least one of the points of law in issue. The approach may be uncritical and/or unselective.	A limited attempt to present logical and coherent arguments and communicates relevant material in a limited manner using some appropriate legal terminology. Reward grammar, spelling and punctuation.

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